

REMARKS

This application pertains to a novel bandage for the shoulder and upper arm area of a patient.

Claims 1-8 and 10-21 are pending.

Applicants have previously submitted a proposed new Fig. 5 and that proposed new Fig. 5 stands objected to by the Examiner as introducing new matter. Applicants submit herewith a different proposed Fig. 5, which they believe is fully supported by the original specification. The Examiner is respectfully requested to consider and approve the entry of the accompanying proposed Fig. 5. If the Examiner will be kind enough to indicate his approval, Applicants will arrange for the submission of a formal drawing.

The Examiner will note that the accompanying copy of proposed Fig. 5 includes text matter. This text matter is included on the drawing merely to facilitate the Examiner's review of the drawing. Once the proposed drawing is approved by the Examiner, Applicants will submit a formal drawing, but the formal drawing will not include the foregoing text matter.

The Amendment filed May 19, 2003 is objected to under 35 USC 132 because it introduces new matter into the disclosure. Applicants have carefully checked the Amendment that was filed on May 19, 2003, and do not see any amendment to the specification, and therefore do not understand this objection. If the Examiner would be kind enough to point out more specifically where it is that new matter was introduced into the disclosure, Applicants will take appropriate action to obviate the objection. For the present, however, it appears that the only place that the alleged new matter was

introduced would have been in the amendment of claim 21. And this is addressed by the Examiner through a 35 USC 112 rejection of that claim.

Claim 21 stands rejected under 35 USC 112, first paragraph, as failing to comply with the written description requirement. This claim has now been amended, and as amended, is believed to be fully supported by the original disclosure. In this regard, the recitation that the first of said two parts is configured to fit dorsally around the thorax of a patient is fully supported by Fig. 4, which shows the support strap running dorsally behind the neck of a patient and then continuing ventrally over the thorax to the forearm part. The recitation that the second part of the support strap is configured to run dorsally over the thorax of the patient is supported by the paragraph bridging pages 3 and 4 of the original specification, wherein it is recited that the support strap is partially divided in two parts so as to be able to be fixed both ventrally and dorsally on the thorax.

Accordingly, the 35 USC 112 rejection of claim 21 should now be withdrawn.

Turning now to the art rejections, claims 1, 3-6 and 10 stand rejected under 35 USC 102(b) as anticipated by Abolina (SU 321252).

Applicants' claims have now been amended to recite that one end of the holding strap is fixed to the forearm part and the second end of the holding strap is secured to the upper arm part. This is neither taught nor suggested by Abolina. The addition of this limitation to claim 1 is fully supported by the language at page 8, lines 11-13 and Fig. 3 of the original specification.

It can therefore be seen that Applicants' bandage, as recited in claim 1, is very

different than anything which is taught or suggested by Abolina, and the rejection of claims 1, 3-6 and 10 under 35 USC 102(b) as anticipated by Abolina should now be withdrawn.

Claim 2 stands rejected under 35 USC 103(a) as obvious over Abolina in view of Lindenmeyer (5,599,283).

The Examiner views Abolina as disclosing the claimed invention, except for the shells being encapsulated, and relies on Lindenmeyer for such encapsulation. As indicated above, however, the difference between Applicants' bandage and anything that may be found in Abolina is much more than just the presence or absence of an encapsulated shell. Nothing to be found anywhere in Lindenmeyer would teach or suggest the changes that would be required to go from Abolina's disclosure to the bandage defined by Applicants' claim 2. Accordingly the rejection of claim 2 under 35 USC 103(a) as obvious over Abolina in view of Lindenmeyer should now be withdrawn.

Claims 7 and 8 stand rejected under 35 USC 103(a) as obvious over Abolina in view of Munoz.

The differences between Applicants' bandage and the arm support disclosed by Abolina has been discussed above. There is nothing in the Munoz reference that would overcome these differences. In addition, Munoz's forearm part and upper shoulder part are attached to each other by a rigid bar (26), not a flexible strap; and Munoz's strap (44) does not in any way hold the forearm part to the body, but merely holds the forearm in the forearm part, just like Abolina's strap (5).

Accordingly, the bandage of Applicants' claims 7 and 8 cannot in any way be

seen as obvious over Abolina in view of Munoz, and the rejection of said claims over said combination of references should now be withdrawn.

Claims 11, 12 and 20 stand rejected under 35 USC 103 as obvious over Abolina in view of Johnson. The Examiner acknowledges that Abolina does not disclose that the straps are made from laminated foam or laminated nonwoven fabric, but relies on Johnson for this feature.

A laminated foam or laminated nonwoven will not overcome the differences pointed out above with respect to Abolina, however.

The Examiner also relies on Johnson for a teaching of relatively non-elastic material. This, as well, will not overcome the differences pointed out above between Applicants' bandage and the disclosure of Abolina.

Accordingly, the rejection of claims 11, 12 and 20 under 35 USC 103 as obvious over Abolina in view of Johnson should now be withdrawn.

Claims 13-15 and 19 stand rejected under 35 USC 103(a) as obvious over Abolina in view of Ford. The Examiner relies on Ford for teaching of specific materials of construction.

No materials of construction could ever, however, overcome the differences between Applicants' bandage and the support of the Abolina reference as discussed above. Accordingly, the rejection of claims 13-15 and 19 under 35 USC 103(a) as obvious over Abolina in view of Ford should now be withdrawn.

Finally, claims 16-18 stand rejected under 35 USC 103(a) as obvious over

Abolina in view of Ford and further in view of Cherubini.

The Examiner relies on Cherubini for a suggestion of heating the support between a positive and negative mold. This, however, will not overcome the differences pointed out above between Applicants' bandage and the support taught by the Abolina/Ford references. Accordingly, the rejection of claims 16-18 under 35 USC 103(a) over Abolina in view of Ford and further in view of Cherubini should now be withdrawn.

In view of the present amendments and remarks it is believed that claims 1-8 and 10-21 are now in condition for allowance. Reconsideration of said claims by the Examiner is respectfully requested and the allowance thereof is courteously solicited.

CONDITIONAL PETITION FOR EXTENSION OF TIME

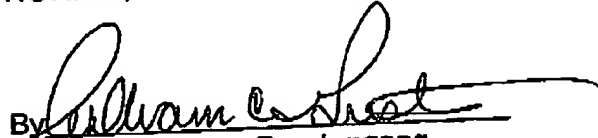
If any extension of time for this response is required, applicant requests that this be considered a petition therefor. Please charge the required Petition fee to Deposit Account No. 14-1263.

ADDITIONAL FEE

Please charge any insufficiency of fees, or credit any excess to our Deposit Account No. 14-1263.

Respectfully submitted

NORRIS, McLAUGHLIN & MARCUS

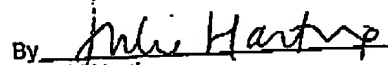
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I hereby certify that this correspondence is being transmitted  
via facsimile, no. 703-872-9306 to: Commissioner for  
Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on  
February 26, 2004.

By   
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Date February 26, 2004